

2013 Assembly Bill 119 (LRB -0017)

An Act to repeal 941.26 (4) (f), 941.26 (4) (h), 941.26 (4) (i), 941.26 (4) (j) 1. c. and 941.26 (4) (j) 2.; to renumber and amend 941.26 (4) (k); to consolidate, renumber and amend 941.26 (4) (j) 1. (intro.), a. and b.; and to create 941.26 (4) (g) 1m., 941.26 (4) (k) 2. and 941.26 (4) (m) of the statutes; relating to: the regulation of oleoresin of capsicum in containers sold in this state. (FE)

2013

04-04.	A.	Introduced by Representatives Thiesfeldt, Jacque, Kolste, T. Larson, Petryk, Bies, LeMahieu, Brooks, Bernier, Ohnstad, Schraa, Ballweg and Spiros ; cosponsored by Senators Lasee and Gudex .	101
04-04.	A.	Read first time and referred to Committee on Criminal Justice	101
05-02.	A.	Fiscal estimate received	
05-02.	A.	Public hearing held	
05-14.	A.	LRB correction	167
05-16.	A.	Executive action taken	
05-24.	A.	Report passage recommended by Committee on Criminal Justice, Ayes 6, Noes 1	190
05-24.	A.	Referred to Committee on Rules	190
06-10.	A.	Placed on calendar 6-12-2013 by Committee on Rules	
06-12.	A.	Read a second time	220
06-12.	A.	Assembly Amendment 1 offered by Representatives Smith, Kessler and Sinicki (LRB a0642)	220
06-12.	A.	Assembly Amendment 1 laid on table, Ayes 58, Noes 39	220
06-12.	A.	Ordered to a third reading	221
06-12.	A.	Rules suspended	221
06-12.	A.	Read a third time and passed	221
06-12.	A.	Ordered immediately messaged	221
06-13.	S.	Received from Assembly	270
06-14.	S.	Read first time and referred to committee on Judiciary and Labor	273
08-20.	S.	Public hearing held	
09-25.	S.	Representative Tittl added as a coauthor	377
10-01.	S.	Executive action taken	
10-02.	S.	Report concurrence recommended by Committee on Judiciary and Labor, Ayes 3, Noes 2	384
10-02.	S.	Available for scheduling	
11-11.	S.	Placed on calendar 11-12-2013 pursuant to Senate Rule 18(1)	
11-12.	S.	Read a second time	
11-12.	S.	Ordered to a third reading	
11-12.	S.	Rules suspended	
11-12.	S.	Read a third time and concurred in	
11-12.	S.	Ordered immediately messaged	
11-12.	A.	Received from Senate concurred in	

2013
ENROLLED BILL

13en AB-119

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr SubAmdt

13-0017,2

Amendments to above (if none, write "NONE"):

NONE

Corrections – show date (if none, write "NONE"):

MAY 14, 2013

Topic

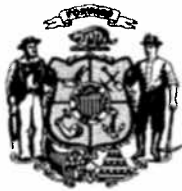
Rel

11-14-13

Date



Enrolling Drafter



State of Wisconsin
2013-2014 LEGISLATURE

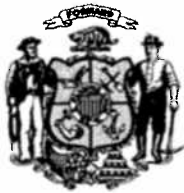
CORRECTIONS IN:

2013 ASSEMBLY BILL 119

Prepared by the Legislative Reference Bureau
(May 14, 2013)

1. Page 3, line 15: delete "(1m.)," and substitute "(1m.)." CORR

(END)



2013 ASSEMBLY BILL 119

April 4, 2013 - Introduced by Representatives THIESFELDT, JACQUE, KOLSTE, T. LARSON, PETRYK, BIES, LEMAHIEU, BROOKS, BERNIER, OHNSTAD, SCHRAA, BALLWEG and SPIROS, cosponsored by Senators LASEE and GUDEx. Referred to Committee on Criminal Justice.

1 **AN ACT to repeal** 941.26 (4) (f), 941.26 (4) (h), 941.26 (4) (i), 941.26 (4) (j) 1. c. and
2 941.26 (4) (j) 2.; **to renumber and amend** 941.26 (4) (k); **to consolidate,**
3 **renumber and amend** 941.26 (4) (j) 1. (intro.), a. and b.; and **to create** 941.26
4 (4) (g) 1m., 941.26 (4) (k) 2. and 941.26 (4) (m) of the statutes; **relating to:** the
5 regulation of oleoresin of capsicum in containers sold in this state.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Justice (DOJ) to promulgate rules regulating the sale of devices or containers that contain oleoresin of capsicum (commonly known as the pepper in pepper spray). The rules must include safety criteria, requirements to ensure such a device or container is effective and appropriate for self-defense purposes, limits on the percentage of oleoresin of capsicum in such a device or container, and a maximum effective range for such a device or container. A person who intentionally sells a device or container that does not comply with these rules is guilty of a Class A misdemeanor. This bill prohibits DOJ from promulgating rules that regulate such devices or containers.

Current law also prohibits a person from selling a device or container containing oleoresin of capsicum without providing the purchaser with a proper label on the device or container, written safety instructions for using the device or container, and a package that contains a clear, highlighted message to the purchaser cautioning him or her to read and follow the safety instructions. A person who violates one of the prohibitions is guilty of a Class A misdemeanor. This bill

ASSEMBLY BILL 119

eliminates the requirement to provide a package containing a clear, highlighted message that cautions the purchaser to read and follow the safety instructions.

Also, under current law, a seller of a device or container may not leave an unsold device or container in a place where customers have access to it. This bill eliminates this prohibition.

Finally, under current law, a person under the age of 18 who possesses a device or container containing oleoresin of capsicum is subject to a Class E forfeiture and a person who knowingly sells or distributes such a device or container to a person under the age of 18 is guilty of a Class C forfeiture. Under this bill, these prohibitions do not apply if the person's parent, guardian, or legal custodian gave the device or container to him or her.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 941.26 (4) (f) of the statutes is repealed.

2 **SECTION 2.** 941.26 (4) (g) 1m. of the statutes is created to read:

3 941.26 (4) (g) 1m. Subdivision 1. does not apply to an actor who is a parent,
4 guardian, or legal custodian of a person who has not attained 18 years of age if the
5 actor gives the person the device or container.

6 **SECTION 3.** 941.26 (4) (h) of the statutes is repealed.

7 **SECTION 4.** 941.26 (4) (i) of the statutes is repealed.

8 **SECTION 5.** 941.26 (4) (j) 1. (intro.), a. and b. of the statutes are consolidated,
9 renumbered 941.26 (4) (j) and amended to read:

10 941.26 (4) (j) Whoever intentionally sells a device or container described under
11 par. (a) without providing the purchaser with ~~all of the following is guilty of a Class~~
12 ~~A misdemeanor: a. A~~ a proper label on the device or container. ~~b. Written and~~
13 written safety instructions for using the device or container is guilty of a Class A
14 misdemeanor.

15 **SECTION 6.** 941.26 (4) (j) 1. c. of the statutes is repealed.

ASSEMBLY BILL 119

1 **SECTION 7.** 941.26 (4) (j) 2. of the statutes is repealed.

2 **SECTION 8.** 941.26 (4) (k) of the statutes is renumbered 941.26 (4) (k) 1. and
3 amended to read:

4 941.26 (4) (k) 1. ~~Any~~ Except as provided in subd. 2., any person who has not
5 attained the age of 18 years and who possesses a device or container described under
6 par. (a) is subject to a Class E forfeiture.

SECTION 9. 941.26 (4) (k) 2. of the statutes is created to read:

8 941.26 (4) (k) 2. Subdivision 1. does not apply if the person's parent, guardian,
9 or legal custodian purchased the device or container for him or her or gave the device
10 or container to him or her.

11 **SECTION 10.** 941.26 (4) (m) of the statutes is created to read:

12 941.26 (4) (m) The department of justice may not promulgate or enforce any
13 rule that regulates a device or container described under par. (a).

14 **SECTION 11. Initial applicability.**

15 CCC (1) The treatment of section 941.26 (4) (g) (i), and (j) 1. c. and 2. of the
16 statutes first applies to sales that occur on the effective date of this subsection.

17 (END)